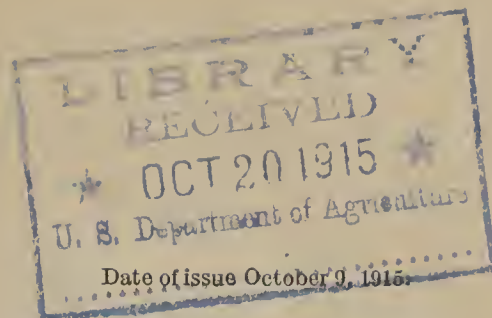


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UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

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STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

IDAHO

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PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 1604, REV. CODES, 1908, AMENDED BY L. 1909, P. 227, SEC. 1.

Fire districts—Fire wardens and deputy fire wardens: Appointment and payment of—Police powers of—Abstract of fire laws, with regulations, preparing and posting.—The State Board of Land Commissioners¹ of the State of Idaho shall divide the State into districts to be known and designated as fire districts, having due regard in establishing the boundaries thereof to the area of forests or timber lands therein; they shall appoint, upon the application of any owner or owners of land or other property within the State, one fire warden within each of the districts of the State, and such fire wardens, so appointed, shall be paid by said property owners applying for the appointment of the same, and shall in no case be paid by the State, except as hereinafter provided. All such appointments shall be made for one year, unless

¹ The State board of land commissioners is composed of the governor, superintendent of public instruction, secretary of state, attorney general and state auditor. (Sec. 7, Art. IX., constitution of the State of Idaho, amendment adopted Nov. 8, 1910; L. 1913, p. 674.)

sooner revoked, and the State Board of Land Commissioners may at any time revoke any such appointment, upon good cause shown. The fire wardens, so appointed, shall appoint, as deputy fire wardens, within their respective districts, such persons as shall be designated by such owners of land or other property, who shall also be paid by the person or persons securing their appointment. Their employment shall not be for any definite time, and they shall be discharged immediately by the fire warden of their district upon the request of such person or persons at whose instance they were appointed. The fire warden and deputy fire wardens shall have and exercise police powers while engaged in performing the duties of their respective offices: *Provided*, That the State Board of Land Commissioners shall prepare an abstract of the penal laws relating to forest and prairie fires, together with proper regulations and suggestions for the prevention and control thereof, and before April first in each year shall forward printed copies to all fire wardens, railroad companies, and chairman [chairmen] of county boards. The wardens shall post such abstract in numerous conspicuous places in their respective districts. [L. 1907, p. 18, sec. 1.]

SEC. 1605, AMENDED BY L. 1909, P. 227, SEC. 2.

Fire wardens and deputy fire wardens: Patrol, investigations and reports by—Cooperation between—Arrests by—Controlling fires—Impressing assistance—Payment for services.—The fire wardens shall enforce the provisions of this act. They, and the deputy fire wardens shall patrol their districts in dry seasons. They shall promptly investigate each prairie and forest fire within their respective districts. Each fire warden shall make an annual report to the State Board of Land Commissioners of the fires within his respective district, together with the cause thereof, the property destroyed and its value, the lives lost, if any, and the means used to combat such fire, and any additional facts required by the State Board. Each warden shall cooperate with the warden in the adjoining district, and, in his absence, assume control therein. Each may arrest, without warrant, any person found violating any provisions of this act, and take him before a magistrate and there make complaint; and, when a warden shall have information that such violation has been committed, he shall make similar complaint. Wardens shall go to the place of danger to control or prevent fires, and, in emergencies, may employ or compel assistance,¹ and the compensation for such service compelled shall not exceed two dollars and fifty cents (\$2.50) per day, exclusive of subsistence and reasonable traveling expenses. [L. 1907, p. 18, sec. 2.]

SEC. 1611.

Officers charged with enforcement of law.—The State Land Commissioner and his assistants, or land appraisers and selectors, game wardens and their deputies, and all peace officers of the State, are hereby charged with

the enforcement of this chapter, and shall have full power to arrest violators of the provisions of this chapter, and deliver them to the nearest magistrate to be dealt with according to law; and it is hereby made the duty of such officers having a knowledge or any violation of the provisions of this chapter, to file complaint in a court of competent jurisdiction against such person. [L. 1907, p. 18, sec. 8.]

SEC. 7, L. 1909, P. 227.

Repeal of Sec. 1612.—That Section 1612, Chapter 4 of Title 9 of the Political Code of the State of Idaho be, and the same is hereby repealed.

SEC. 8.

State Board of Land Commissioners to cooperate with private owners in carrying out act—Expense: State liable for pro rata share of—Payment of.—The State Board of Land Commissioners of the State of Idaho shall in all things co-operate with the owners of land, timber, or other property in this State in carrying out the provisions and purposes of this Act, and the State of Idaho shall bear and pay its proper pro rata share of the costs and expenses of protecting the lands and timber in the State against destruction by fire incurred under the provisions of this Act according to the area and extent of its land and timber holdings throughout the several fire districts of this State, and the State of Idaho shall be considered an owner of land or other property within the meaning of that term as used in this Act, for the purposes of this Act. Such moneys as the State shall thus become liable for shall be paid as part of the general expenses of the State Board of Land Commissioners and out of the appropriations which shall be made by the Legislature for that purpose; and in all appropriations hereafter made for general expenses of said board account shall be taken of, and provision made for this item of expense.

SEC. 9.

Fines, division of, to county fund and informants.—All fines collected for violations of this act, or any provisions thereof, shall be disposed of and paid as follows, to-wit: Half to the general fund of the county where the conviction is had and half to the person or persons furnishing the information leading to the arrest and conviction of the person, firm or corporation convicted.

(2) RAILROAD FIRES.¹

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and saw-mill engines, and boilers.)

¹ See also, on p. 3, sec. 3, L. 1909, p. 227, concerning brush and slash disposal by firms and corporations; and sec. 1609, on p. 3, concerning closed seasons for setting out brush fires by firms and corporations.

¹ For penalty for refusing to assist, see sec. 1608, on p. 4.

SEC. 1607, REV. CODES, 1908, AMENDED BY CH. 98, L. 1911.

Spark arresters—Penalty.—It shall be unlawful for any person, firm or corporation to use any spark emitting locomotive, logging engine, portable engine, traction engine, or stationary engine located in a timber district, without the use of a good and efficient spark arrester. Any person, firm, or corporation who shall fail to provide and use such spark arrester upon any engine, shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day that such engine or locomotive is so used. [L. 1907, p. 18, sec. 4; L. 1909, p. 227, sec. 4.]

SEC. 1610, AMENDED BY L. 1909, P. 227, SEC. 6.

Rights of way to be kept clear—Deposits of fire, live coals, etc.—Trainmen to report fires—Instruction to employees—Warning placards at stations—Concentration of help—Penalties.—Every person, firm or corporation operating a railroad shall keep the ground for fifty feet on each side of the center of the track, or such portion thereof as may be owned or controlled by such person, firm, or corporation, clear of combustible materials, except ties and other materials necessary for the maintenance and operation of the road, from June first to October first of each year.¹ No person, firm or corporation shall permit any of his or its employees to leave a deposit of fire, live coals, or ashes in the immediate vicinity of woodland or lands liable to be overrun by fire, and every engineer, conductor, trainman, or section man discovering fire adjacent to the track shall report the same promptly at the first telegraph or telephone station reached by him. At the beginning of the close season every such person, firm or corporation shall give his or its employees particular instruction for the prevention and extinguishment of fires, and shall cause warning placards to be conspicuously posted at every station within this State, and when a fire occurs near the line of his or its road, shall concentrate such help and adopt such measures as shall be available for its extinguishment. Any person, firm, or corporation violating any provisions of this section shall be guilty of a misdemeanor and shall be subjected to a penalty of not more than One Hundred (\$100.00) Dollars for each offense and any railroad employee violating the same shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five (\$5.00) Dollars, nor more than Fifty (\$50.00) Dollars. [L. 1907, p. 18, sec. 7.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 3, L. 1909, P. 227.

Brush and slash disposal: Requirements—Penalty for violation of provisions.—Any person, firm or cor-

poration engaged in the cutting and removing of timber, logs, ties, telegraph poles, wood, or other forest products from lands within the State of Idaho, shall pile and burn or otherwise dispose of the brush, limbs, tops, and other waste material incident to such cutting, which are four inches or under in diameter, and the times and methods of so doing shall be prescribed by the warden of the fire districts in which said cutting shall be done.¹ Any person, firm or corporation violating the provisions of this Act or refusing to conform to any rules made by the warden of any fire district of the State of Idaho relative to the time, place and manner of burning or disposing of brush, limbs, tops, and other waste material incident to the cutting of timber, logs, ties, telegraph poles, wood or other products, shall be guilty of a misdemeanor and upon conviction thereof be subject to a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be imprisoned in the County Jail of the county in which the offense occurs, for not less than thirty days and not to exceed six months, or be subjected to both such fine and imprisonment.

SEC. 1606, REV. CODES, 1908.

Permits to set out fires: Season for—Requirements under—Revoking or postponing.—It shall be the duty of the fire warden of each fire district to issue written or printed permits during permit season, to any and all persons named in an application to set out fires. Said application shall state the general description of the land upon which it is desired to set out fires and the extent of the slashing or burning desired to be burned. Said permit season shall be from June first to October first of each year. Said permits shall fix the time for setting out fires on any three consecutive days therein named, and not less than ten days from the date of such permit, and such fires shall be set at no time when the wind is blowing to such an extent as to cause danger of the same getting beyond the control of the person setting out said fire, or without sufficient help present to control the same, and the said fire shall be watched by the person setting out the fire until the same is out. Upon granting said permit the fire warden shall be present at said proposed burning, or notify, at the earliest possible moment, some qualified and acting deputy fire warden in the vicinity of said proposed burning to be present thereat, and upon good cause may revoke or postpone said permit upon notice to said applicant. [L. 1907, p. 18, sec. 3.]

SEC. 1609, REV. CODES, 1908, AMENDED BY L. 1909, P. 227, SEC. 5.

Closed season for setting out fires without permit—Precautions—Penalty—Back fires—Record of permits.—The period from June first to October the first in each year shall be known as the closed season, during which time it shall be unlawful for any camper, farmer, logger or other individual, firm or corporation, to set out or cause to be set out, fires in slashings, down or fallen timber, or on timber lands or in the vicinity of grain fields.

¹ See also sec. 6921, on p. 4, concerning liability of railway companies for permitting fires to spread from their rights of way to adjoining lands.

¹ See also sec. 1589 (d), on p. 5.

for the purpose of clearing land of brush, grass, or other inflammable material without first obtaining a permit in writing, or print, from the fire warden of the district as provided in Section 3 of this Act, and at no time shall any fire be set out when the wind is blowing to such an extent as to cause danger of the same getting beyond the control of the person setting out such fire, or without sufficient help present to control the same; and the same shall be watched by the person setting the fire until the same is out. Any person violating any of the provisions of this section shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than Three Hundred (\$300.00) Dollars, or by imprisonment in the county jail not less than one month nor more than six months: *Provided*, That this Section shall not apply to any person or persons setting out back fires for the purpose of stopping or checking a fire then burning. The fire warden shall keep a complete copy of permits issued. [L. 1907, p. 18, sec. 6.]

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 1606, REV. CODES, 1908.

Permits to set out fires: Season for—Requirements—Revoking or postponing.—(For text of these provisions, see this section on p. 3.)

SEC. 1609, REV. CODES, 1908.

Closed season for setting out fires without permit—Precautions—Penalty—Back fires—Record of permits.—(For text of these provisions, see this section on p. 3.)

SEC. 1608.

Failure or refusal to perform duty—Neglect to extinguish fires—Use of other than incombustible wads, naked torch, etc.—Destruction of notices—Penalty.—Every warden or deputy warden, and every person lawfully commanded to assist in enforcing any of the provisions of this chapter, who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near to forest or prairie land and leave it unextinguished, or be a party thereto; every person who shall use other than incombustible wads for firearms, or carry a naked torch, fire brand or exposed light in or near to forest land; and every person who shall deface, destroy or remove any abstract or notice posted under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. [L. 1907, p. 18, sec. 5.]

SEC. 6921.

Firing timber or prairie lands—Camp fires—Railroad fires—Penalty.—Any person who shall wilfully or carelessly set on fire, or cause to be set on fire, any timber or prairie lands in this State,¹ thereby destroying the

timber, grass or grain on any such lands, or any person who shall build a camp fire in any woods, or on any prairie, and leave the same without totally extinguishing such fire, or any railway company which shall permit any fire to spread from its right of way to the adjoining lands,² is guilty of a misdemeanor. [Rev. Stat., 1887, sec. 6921.]

SEC. 1926.

Notice concerning camp fires—Cost of—Posting.

It is the duty of the board of county commissioners of each county in this State, to cause to be erected in a conspicuous place at the side of each public highway, and at such places as they may deem proper, a notice in large letters, substantially as follows:

"Camp fires must be totally extinguished before breaking camp, under penalty of not to exceed six months imprisonment, or three hundred dollars fine, or both, as provided by law.

"(Signed.) _____,

"County Commissioner."

The erection and maintenance of such notices shall be at the expense of the respective counties, and at least ten in number of such notices shall be posted in each and every county in this State. [Rev. Stat., 1887, sec. 1792.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

SEC. 1588, REV. CODES, 1908.

Preservation of trees on State lands.—No trees standing on lands of the State, which lands when cleared of trees will not be suitable for cultivation and raising crops, and no trees needed to conserve the snows, ice, or water of any irrigation district, shall be cut from any part of the public lands belonging to the State, except as hereinafter provided. [L. 1905, p. 145, sec. 1.]

SEC. 1589.

Application for permit to cut trees.—Any person desiring to cut trees upon any lands owned by the State shall make application in writing to the Register of the State Board of Land Commissioners, which application shall contain: (a) A complete legal designation of the lands upon which it is desired to cut trees; (b) the purpose for which such trees are to be used; (c) that he will carefully protect from fires or other damage all trees less in size than

¹ See also sec. 1607, on p. 3.

² See also sec. 1610, on p. 3.

those desired to cut; (d) that he will entirely remove, as directed by the State Board of Land Commissioners, all cut trees and their branches in such manner that fires may not consume the smaller trees¹; (e) that such trees as are desired for use are not necessary for the conservation of the irrigation waters of any irrigation watershed, or that the same are on lands of the State, which lands when cleared of trees will not be suitable for cultivation and raising of crops. [L. 1905, p. 145, sec. 2.]

SEC. 1593.

Action by State Board of Land Commissioners on applications—Regulation of cut.—Upon the expiration of the time for filing protests as provided in this article,² the Register of the State Board of Land Commissioners shall refer all papers to said board, who may, thereupon, and under such conditions as to the payment of the cost of such proceeding as they may impose, cause the lands designated in the application and the trees growing thereon to be inspected, and, if deemed best, such trees to be appraised, and may refer all papers to the State Land Commissioner, who shall thereupon, personally or by his assistants, inspect the designated lands and the trees growing thereon, and, if directed by the board, shall appraise the same and report in writing to the board. The board shall consider said protest or protests and the report of the State Land Commissioner or his assistants, and shall decide that such trees may be properly disposed of, or against allowing the same to be done. But no trees less than twelve inches in diameter, two feet above the ground, shall be allowed to be cut by any person whomsoever; except that for mining and fencing purposes, trees may be cut not less than five inches in diameter, for use within the county where cut. [L. 1905, p. 145, sec. 6.]

¹ See also, on p. 3, sec. 3, L. 1909, p. 227.

² "This article" contains secs. 1588-1598.

SEC. 1596.

Definition of tree—Preservation of tree growth.—For the purpose of this article¹ the word "tree" shall be held to mean all vegetable growth of a woody texture of any size whatsoever. No lands contemplated in this article shall be leased for any purpose whatsoever that will destroy the tree growth. [L. 1905, p. 145, sec. 9.]

SEC. 1597.

Violation of provisions, penalty.—Any person violating any of the provisions of this article¹ shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of not less than ten nor more than one hundred dollars, or be punished by imprisonment of not less than sixty days, or by both fine and imprisonment, as the court may direct. Suit may also be brought in the name of the State whenever such damage has been caused by any violation of the provisions of this article,¹ by any person or persons engaged in any business or pleasure pursuit whatever. [L. 1905, p. 145, sec. 14.]

SEC. 1598.

County attorneys to prosecute.—The prosecuting attorneys of the various counties of the State are hereby directed to prosecute in the name of the State all cases arising under this article.¹ [L. 1905, p. 145, sec. 15.]

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

¹ "This article" contains secs. 1588-1598.

